

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1173

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Portantino and Torlakson)
(Coauthor: Senator DeSaulnier)

February 27, 2009

An act to add Chapter 7.3 (commencing with Section 42420) to Part 3 of Division 30 of the Public Resources Code, relating to recycling; ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, as amended, Huffman. Recycling: residential fluorescent lamps.

The California Lighting Efficiency and Toxics Reduction Act prohibits, on and after January 1, 2010, except for certain specified circumstances, a person from manufacturing, selling, or offering for sale in the state specified general purpose lights that contain levels of hazardous substances prohibited by the European Union pursuant to the RoHS Directive, as specified.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient, cost-effective manner to conserve water, energy, and other natural resources.

This bill would prohibit the distribution of moneys from energy efficiency investment funds or any other funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to any entity for the purchase and distribution of compact fluorescent lamps, unless the compact fluorescent lamps meet certain specifications, and the manufacturer of the compact fluorescent lamps ~~has either, individually or collectively with other manufacturers or through a stewardship organization, has implemented a residential fluorescent lamp recycling program or the manufacturer or distributor has agreed to pay an amount, as specified, for each residential fluorescent lamp, as defined, sold in this state for which funding is received into the Fluorescent Lamp Recycling Fund.~~ *The bill would require the board, on July 1, 2010, and semiannually thereafter, to post on its Internet Web site a notice listing manufacturers that do not meet the above requirements.* The bill would prohibit the distribution of moneys from funds generated from usage-based charges on electricity distribution that are provided by California's retail sellers of electricity to a retailer, unless the retailer has agreed to provide the public an in-store collection opportunity for the recycling of residential fluorescent lamps.

The bill would require the manufacturers of residential fluorescent lamps sold in this state ~~to, individually or collectively submit to the board with other manufacturers or through a stewardship organization, to develop and maintain a residential fluorescent lamp recycling plan program containing specified elements within 90 days of receiving the funds generated from usage-based charges. The residential fluorescent lamp recycling program described in the plan would be required to contain certain elements and be implemented no later than 2 months after board approval or plan adoption.~~ *The bill would require a manufacturer, individually or collectively with other manufacturers or through a stewardship organization, to submit an annual report on the implementation of the residential fluorescent lamp recycling program.* The bill would require the board to establish an administrative fee to be paid by the manufacturers to cover the cost of reviewing and approving the ~~plans annual report~~ and of oversight and enforcement of the program.

~~This bill would establish the Residential Fluorescent Lamp Recycling Fund in the State Treasury, as a continuously appropriated fund thereby making an appropriation. The bill would require the board to administer the fund and use the moneys to fund the activities of a nonprofit public~~

~~benefit corporation established by persons designated by the board. The nonprofit public benefit corporation would be required to engage in several activities, including, but not limited to, organizing convenient and free collection opportunities for residential fluorescent lamps; providing compensation for the collection and recycling of residential fluorescent lamps by approved collectors and recyclers, and conducting consumer and retailer education and outreach efforts.~~

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Fluorescent Lamp Toxics Reduction and Recycling Act.
3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:
5 (1) California policy, including the California Lighting
6 Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes
7 of 2007), has put California on a path of transition from
8 incandescent lamps to more energy-efficient lighting, including
9 substantially increased utilization of fluorescent lighting.
10 (2) Many existing lighting choices contain toxic materials. Most
11 fluorescent lighting products contain mercury. Most incandescent
12 lighting products contain lead. California prohibits disposing of
13 lighting products containing hazardous levels of metal in the solid
14 waste stream. The hazardous material in waste lighting products
15 can be reduced and managed through recycling, but recycling
16 opportunities are currently inconvenient or nonexistent for most
17 consumers.
18 (3) Fluorescent lighting products delivering the same level of
19 light at the same level of efficiency can have varying levels of
20 mercury. The Department of General Services has adopted a
21 procurement preference favoring low-mercury fluorescent lamps.
22 (4) In 2007, the Legislature enacted the California Lighting
23 Efficiency and Toxics Reduction Act (Chapter 534 of the Statutes
24 of 2007), which directed the Department of Toxic Substances
25 Control (DTSC) to convene a lighting task force to consider and
26 make policy recommendations to the Legislature for designing a
27 statewide collection program for end-of-life fluorescent lights. On
28 September 1, 2008, the task force submitted recommendations to

1 the Legislature on the need and options for a convenient statewide
2 system for the collection and recycling of fluorescent lamps for
3 residential generators.

4 (b) It is the intent of the Legislature to have an established
5 system for the recycling of residential generated fluorescent lamps
6 that is free and convenient for end users.

7 SEC. 3. Chapter 7.3 (commencing with Section 42420) is added
8 to Part 3 of Division 30 of the Public Resources Code, to read:

10 CHAPTER 7.3. FLUORESCENT LAMPS

11
12 42420. For the purposes of this chapter, the following terms
13 have the following meanings:

14 (a) “Consumer” means a purchaser or owner of residential
15 fluorescent lamps, excluding a business, corporation, limited
16 partnership, nonprofit organization, or governmental entity.

17 (b) “Distributor” means a person that has a contractual
18 relationship with one or more manufacturers to market and sell
19 fluorescent lamps to retailers.

20 (c) “Manufacturer” means any person who, on or after the
21 effective date of this act, and regardless of the selling technique
22 used, including by means of remote sale, does one or more of the
23 following:

24 (1) Manufactures fluorescent lamps under its own brand for sale
25 in this state.

26 (2) Manufactures fluorescent lamps for sale in this state without
27 affixing a brand.

28 (3) Resells in this state fluorescent lamps produced by other
29 suppliers under its own brand or label.

30 (4) Imports or exports fluorescent lamps into the United States
31 that are sold in this state. If a company from which an importer
32 purchases the merchandise has a United States presence, assets,
33 or both, that company, and not the importer, shall be deemed to
34 be the manufacturer.

35 (d) “Residential fluorescent lamps” means compact fluorescent
36 lamps and any other fluorescent lamp intended for household use.

37 (e) “*Residential fluorescent lamp recycling program*” means
38 a system for the collection, transportation, recycling, and proper
39 disposal of fluorescent lamps that is financed, as well as managed

1 *or provided, by a manufacturer individually, collectively with other*
2 *manufacturers, or through a stewardship organization.*

3 (e)

4 (f) “Retailer” means a person that sells *subsidized* fluorescent
5 lamps *intended for residential use* in the state to a consumer. A
6 sale includes, but is not limited to, transactions conducted through
7 sales outlets, catalogs, or the Internet or any other similar electronic
8 means.

9 (f) “Program” means a system for the collection, transportation,
10 processing, and disposal of fluorescent lamps that is financed, as
11 well as managed or provided, by a manufacturer or collectively
12 with other manufacturers.

13 (g) “Stewardship organization” means a nonprofit organization
14 that implements and administers the residential fluorescent lamp
15 recycling program.

16 42421. (a) (1) Moneys from funds generated from usage-based
17 charges on electricity distribution, including, but not limited to,
18 energy efficiency investment funds, that are provided by
19 California’s retail sellers of electricity, as defined in subdivision
20 (g) of Section 399.12 of the Public Utilities Code, shall not be
21 distributed to any entity for the purchase and distribution of
22 compact fluorescent lamps, unless all of the following conditions
23 exist:

24 (1)

25 (A) All compact fluorescent lamps purchased are qualified as
26 the most recent ENERGY STAR version listed on the ENERGY
27 STAR Internet Web site, except that if the ~~California~~
28 ~~Environmental Protection Agency~~ *Department of Toxic Substances*
29 *Control* establishes standards on mercury levels, ~~energy efficiency,~~
30 ~~and lamp life~~ that are more stringent than ENERGY STAR for
31 compact fluorescent lamps, the compact fluorescent lamps
32 purchased are required to meet the ~~California Environmental~~
33 ~~Protection Agency~~ *Department of Toxic Substances Control*
34 standards.

35 (2) ~~One of the following requirements are met:~~

36 (A) ~~The manufacturer, individually or collectively with other~~
37 ~~manufacturers, is implementing a board-approved comprehensive~~

38 (B) *The manufacturer, individually collectively with other*
39 *manufacturers or through a stewardship organization, establishes*
40 *and maintains a comprehensive* residential fluorescent lamp

1 recycling program to manage end-of-life residential fluorescent
2 lamps in an environmentally sound fashion, including collection,
3 transportation, processing, and disposal.

4 ~~(B) A manufacturer or distributor not covered by a program~~
5 ~~implemented pursuant to subparagraph (A) is paying an amount~~
6 ~~established pursuant to Section 42424, for each residential~~
7 ~~fluorescent lamp sold in this state for which funding is received~~
8 ~~into the Residential Fluorescent Lamp Recycling Fund established~~
9 ~~pursuant to Section 42424.~~

10 (3)

11 (C) Packaging for the subsidized compact fluorescent lamps
12 sold in this state shall have a label, ~~approved by the board,~~
13 informing consumers that disposing of fluorescent lamps in the
14 solid waste stream is prohibited and providing access to
15 information on opportunities for proper recycling.

16 *(2) The manufacturer, individually or collectively with other*
17 *manufacturers through or a stewardship organization, may*
18 *contract with a retailer for in-store or out-of-store collection of*
19 *end-of-life residential fluorescent lamps.*

20 *(3) The prohibition in paragraph (1) shall be effective on the*
21 *120th day after the notice described in subdivision (d) listing a*
22 *manufacturer is posted on the board's Internet Web site and shall*
23 *remain in effect until the manufacturer is no longer listed on the*
24 *board's Internet Web site or the manufacturer has obtained a*
25 *certification letter pursuant to subdivision (e).*

26 (b) Moneys from funds generated from usage-based charges on
27 electricity distribution, including, but not limited to, energy
28 efficiency investment funds, that are provided by California's retail
29 sellers of electricity, as defined in subdivision (g) of Section 399.12
30 of the Public Utilities Code, shall not be distributed to a retailer
31 for a residential fluorescent lamp program, unless the retailer has
32 agreed to provide the public with a convenient in-store collection
33 opportunity for the recycling of residential fluorescent lamps.

34 ~~(e) The board shall work with manufacturers, distributors,~~
35 ~~retailers, and other stakeholders to develop a uniform label that~~
36 ~~can be affixed or displayed on subsidized compact fluorescent~~
37 ~~lamps sold in this state to meet the requirements of paragraph (3)~~
38 ~~of subdivision (a).~~

39 *(c) On July 1, 2010, and semiannually thereafter, the board*
40 *shall post on its Internet Web site a notice listing manufacturers*

1 *that are not in compliance with conditions set forth in paragraph*
2 *(1) of subdivision (a).*

3 *(d) Manufacturers that have been listed pursuant to subdivision*
4 *(d), but can demonstrate to the satisfaction of the board that they*
5 *are in compliance with conditions set forth in paragraph (1) of*
6 *subdivision (a) may request a certification letter from the board*
7 *to that effect. The letter shall constitute compliance with those*
8 *conditions.*

9 *(e) A retailer shall monitor the board's Internet Web site to*
10 *determine if the sale of a manufacturer's subsidized compact*
11 *fluorescent lamps is in compliance with this article.*

12 42422. ~~(a) To meet the requirement of subparagraph (A) of~~
13 ~~paragraph (2) of subdivision (a) of Section 42421, a manufacturer~~
14 ~~of residential fluorescent lamps sold in this state shall, individually~~
15 ~~or collectively with other manufacturers, submit a residential~~
16 ~~fluorescent lamp recycling plan in accordance with this section to~~
17 ~~the board within 90 days of receiving funds generated from or~~
18 ~~collectively with other manufacturers or through a stewardship~~
19 ~~organization, establish and maintain a residential fluorescent lamp~~
20 ~~recycling program in accordance with this section within 90 days~~
21 ~~of receiving funds generated from usage-based charges on~~
22 ~~electricity distribution.~~

23 ~~(b) The plan shall demonstrate sufficient funding for the~~
24 ~~residential fluorescent lamp recycling program, as described in~~
25 ~~the plan.~~

26 ~~(b) The program shall demonstrate sufficient funding.~~

27 ~~(c) The plan program shall be free and convenient to all~~
28 ~~consumers.~~

29 ~~(d) The plan shall address the coordination of the residential~~
30 ~~fluorescent lamp recycling program with local household hazardous~~
31 ~~waste programs, including contracting for the costs for residential~~
32 ~~fluorescent lamps collected by the household hazardous waste~~
33 ~~programs, where practical.~~

34 ~~(e) The plan shall include consumer and retail education and~~
35 ~~outreach efforts to promote the source reduction and recycling of~~
36 ~~residential fluorescent lamps. Manufacturers may organize and~~
37 ~~coordinate education and outreach efforts with retail sellers of~~
38 ~~electricity. Education and outreach efforts may include, but are~~
39 ~~not limited to, developing, and updating as necessary, educational~~
40 ~~and other outreach materials aimed at retailers of residential~~

1 fluorescent lamps. Those materials shall be made available to the
2 retailers. The materials may include, but are not limited to, one

3 *(d) The program shall include education and outreach efforts*
4 *to promote the proper management of end-of-life fluorescent lamps.*
5 *Education and outreach efforts may include, but are not limited*
6 *to, any of the following:*

7 *(1) Developing and updating as necessary, educational and*
8 *other outreach materials aimed at retailers of residential*
9 *fluorescent lamps. Those materials shall be made available to the*
10 *retailers. The materials may include, but are not limited to, one*
11 *or more of the following:*

12 ~~(1)~~
13 (A) Signage that is prominently displayed and easily visible to
14 the consumer.

15 ~~(2)~~
16 (B) Written materials and templates of materials for reproduction
17 by retailers to be provided to the consumer at the time of purchase
18 or delivery, or both. Written materials shall include information
19 on the prohibition of improper disposal of residential fluorescent
20 lamps *and recycling opportunities.*

21 ~~(3)~~
22 (C) Advertising or other promotional materials, or both, that
23 include references to residential fluorescent lamp recycling
24 opportunities.

25 ~~(f) Two months after a plan is approved by the board or adopted~~
26 ~~pursuant to subdivision (a) of Section 42423, whichever is later,~~
27 ~~a manufacturer shall implement the residential fluorescent lamp~~
28 ~~recycling program described in the approved or adopted plan.~~

29 ~~(g) Within one year of implementing an approved or adopted~~
30 ~~plan, and each year thereafter, a manufacturer of fluorescent lamps~~
31 ~~sold in this state shall, individually or collectively with other~~
32 ~~manufacturers, submit a report to the board describing its~~
33 ~~residential fluorescent lamp recovery efforts.~~

34 (2) *Strategizing with retail sellers of electricity to encourage*
35 *their participation in the collection and proper management of*
36 *end-of-life fluorescent lamps. These strategies may include the*
37 *inclusion of an educational insert in their customers' utility bills.*

38 (3) *Encourage in-store collection by retailers and other outlets.*

39 (e) *Within one year of implementing a residential fluorescent*
40 *lamp recycling program, and annually thereafter, a manufacturer*

1 of residential fluorescent lamps, individually, collectively with
2 other manufacturers or through a stewardship organization, shall
3 submit an annual report to the board describing its residential
4 fluorescent lamp recovery efforts. The report shall be posted on
5 the manufacturer's Internet Web site. The annual report shall
6 include all of the following:

- 7 (1) A list of all manufacturers participating in the program.
- 8 (2) The total number of end-of-life fluorescent lamps collected
9 in California during the previous year.
- 10 (3) A complete listing of all participating collection sites.
- 11 (4) A description of the methods used to collect, transport,
12 recycle, and dispose of end-of-life fluorescent lamps.
- 13 (5) A description of the outreach strategies employed to increase
14 participation and collection rates.
- 15 (6) Examples of the outreach and educational materials used.
- 16 (7) The total cost of implementing the residential fluorescent
17 lamp recycling program by the following categories:

- 18 (A) Outreach and education.
- 19 (B) Administration.
- 20 (C) Collection, transportation, recycling, and disposal.

21 ~~42423. (a) The board shall review and approve the residential~~
22 ~~fluorescent lamp recycling plan within 90 days of receipt. A plan~~
23 ~~not acted upon by the board within 90 days shall be deemed~~
24 ~~adopted.~~

25 ~~(b)~~
26 42423. (a) The board shall review the annual report required
27 pursuant to Section 42422 and within 90 days of receipt shall adopt
28 a finding of compliance or noncompliance with the provisions of
29 this act.

- 30 ~~(e)~~
- 31 (b) The board shall enforce this chapter.
- 32 ~~(d)~~
- 33 (c) The board shall establish administrative fees to be paid by
34 manufacturers to cover the cost of reviewing and approving plans
35 the annual report and the cost of oversight and enforcement of the
36 residential fluorescent lamp recycling program.

37 ~~42424. (a) The initial amount to be collected from a~~
38 ~~manufacturer and distributor of residential fluorescent lamps~~
39 ~~pursuant to subparagraph (B) of paragraph (2) of subdivision (a)~~
40 ~~of Section 42421 shall be five million dollars (\$5,000,000) divided~~

~~by the total number of fluorescent lamps for which energy efficiency investment funds were paid in 2008, paid in equal shares.~~

~~(b) On and after January 1, 2011, the amount to be collected from a manufacturer or distributor of residential fluorescent lamps pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 42421 shall be the total amount of funds projected to be needed to make the payments pursuant to subdivision (d), and the amount needed to cover the costs of implementing a successful residential fluorescent lamp recycling program pursuant to Section 42425, divided by the total number of fluorescent lamps for which energy efficiency investment funds were paid in the previous year, paid in equal shares. The total amount collected shall not exceed 10 million dollars (\$10,000,000).~~

~~(c) (1) Any amount collected from a manufacturer or distributor of residential fluorescent lamps pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 42421 shall be deposited into the Residential Fluorescent Lamp Recycling Fund which is hereby created in the State Treasury.~~

~~(2) Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the board for the purposes of carrying out this chapter.~~

~~(d) Moneys in the fund shall be used to make payments to retailer-based collectors, local governments, and other approved collectors and recyclers of residential fluorescent lamps generated by households in this state.~~

~~(e) The amount of payments established pursuant to this section shall be at a level sufficient to cover the average cost of collecting and properly recycling residually generated fluorescent lamps and to encourage public, private, and nonprofit entities to establish convenient locations for that collection.~~

~~(f) The amount of the payments established pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 42421 shall be at a level necessary to provide sufficient funds for the requirements of this section and Section 42425.~~

~~42425. (a) (1) The board shall designate persons to establish a non-profit public benefit corporation. The corporation shall be solely responsible for managing a cost-efficient and environmentally sound collection, transportation, processing, and disposal system for residential fluorescent lamps.~~

1 ~~(2) The corporation shall be funded by the board using moneys~~
2 ~~from the Residential Fluorescent Lamp Recycling Fund.~~

3 ~~(b) Specific responsibilities of the corporation shall include, but~~
4 ~~are not limited to, the following:~~

5 ~~(1) Organizing, administering, and ensuring that residential~~
6 ~~fluorescent lamp collection opportunities are available and provided~~
7 ~~in a manner that is free and convenient to all consumers.~~

8 ~~(2) Encouraging the use of existing collection and consolidation~~
9 ~~infrastructures for handling residential fluorescent lamps to the~~
10 ~~extent that the infrastructure is accessible on a regular and ongoing~~
11 ~~basis, is cost effective, and meets environmentally sound~~
12 ~~management requirements.~~

13 ~~(3) Providing compensation for the collection and recycling of~~
14 ~~residential fluorescent lamps, by approved collectors and recyclers~~
15 ~~whether by local government, for-profit corporations, nonprofit~~
16 ~~corporations, retailers, manufacturers, or any other party, for the~~
17 ~~reasonable costs associated with these activities.~~

18 ~~(4) (A) Conducting consumer and retailer education and~~
19 ~~outreach efforts to promote the source reduction and recycling of~~
20 ~~residential fluorescent lamps. The corporation may organize and~~
21 ~~coordinate education and outreach efforts with retail sellers of~~
22 ~~electricity.~~

23 ~~(B) Education and outreach efforts may include, but are not~~
24 ~~limited to, developing, and updating as necessary, educational and~~
25 ~~other outreach materials aimed at retailers of residential fluorescent~~
26 ~~lamps. Those materials shall be made available to the retailers and~~
27 ~~may include, but are not limited to, one or more of the following:~~

28 ~~(i) Signage that is prominently displayed and easily visible to~~
29 ~~the consumer.~~

30 ~~(ii) Written materials and templates of materials for reproduction~~
31 ~~by retailers to be provided to the consumer at the time of purchase~~
32 ~~or delivery, or both. Written materials shall include information~~
33 ~~on the prohibition of improper disposal of residential fluorescent~~
34 ~~lamps.~~

35 ~~(iii) Advertising or other promotional materials, or both, that~~
36 ~~include references to residential fluorescent lamp recycling~~
37 ~~opportunities.~~

38 ~~(5) Submitting a report to the board annually on the~~
39 ~~implementation of the system during the previous calendar year.~~

- 1 The report shall be posted on the corporation's Internet Web site
2 and shall include all of the following:
- 3 (A) A list of all manufacturers participating in the system and
4 the total amount collected.
- 5 (B) A list of all parties participating in the system whom the
6 corporation has designated as approved to receive payments, the
7 amount of payments it has made to those parties, and the purpose
8 of those payments.
- 9 (C) The total number of residential fluorescent lamps collected
10 the previous year.
- 11 (D) A summary of funds expended by the following categories:
- 12 (i) Education.
- 13 (ii) Administration.
- 14 (iii) Collection.
- 15 (iv) Transportation.
- 16 (v) Recycling.
- 17 (vi) Disposal.
- 18 (vii) Other.
- 19 (E) Any surplus funds carried forward.
- 20 (F) A complete listing of all collection sites and the amount of
21 material collected at each site.
- 22 (6) Maintaining an Internet Web site with up-to-date listings of
23 where consumers can bring residential fluorescent lamps for
24 recycling.